

MINUTES DRAFT
Regular Session
THE PLANNING AND ZONING COMMISSION
TOWN OF CAMP VERDE COUNCIL CHAMBERS
THURSDAY MAY 5, 2011
6:30 PM

Minutes are a summary of the actions taken. They are not verbatim.
Public input is placed after Commission motions to facilitate future research.
Public input, where appropriate, is heard prior to the motion

1. Call to Order

The meeting was called to order at 6:30 p.m.

2. Roll Call

Chairperson Butner, Vice Chairperson Norton, Commissioners Buchanan, Parrish, Freeman and Hough were present; Commissioner Hisrich arrived at 6:37 p.m.

Also Present: Community Development Director Mike Jenkins, Asst. Planner Jenna Owens, and Recording Secretary Margaret Harper.

3. Pledge of Allegiance

The Pledge was led by Freeman.

4. Consent Agenda - All those items listed below may be enacted upon by one motion and approved as Consent Agenda Items. Any item may be removed from the Consent Agenda and considered as a separate item if a member of Commission so requests.

a. Approval of Minutes:

April 14, 2011 Special Session

b. Set Next Meeting, Date and Time:

As needed

On a motion by Hough, seconded by Buchanan, the Consent Agenda was unanimously approved as presented, with the correction noted.

Chairperson Butner pointed out an error in the Minutes of April 14, 2011, first page, last paragraph; the correct spelling for the McReynold property is Campo De Ensueno.

5. Call to the Public for Items not on the Agenda

There was no public input.

6. Public Hearing, Discussion, and possible recommendation to Council of amendments to the Draft Rewrite of the Town of Camp Verde Planning & Zoning Ordinance as was recommended for approval by the Planning & Zoning Commission (Parts one through six) to the Town Council on April 14, 2011; These amendments pertain to including, as Permitted Use by right, Medical Marijuana Dispensaries, Medical Marijuana Cultivation Facilities and Medical Marijuana Infusion Facilities in certain zoning districts of the Town with certain limitations as provided for, under the rules of the Arizona Department of Health Services (ADHS) and as recommended by the Planning & Zoning Commission.

On a motion by Hough, seconded by Buchanan, the Commission **voted 6-1** to proceed with zoning the medical marijuana dispensary and growery facilities; **with Butner opposed.**

On a motion by Hisrich, seconded by Buchanan, the Commission **voted 6-1** to recommend that Council allow one dispensary, enclosed and covered, to grow and dispense from that single location in C-2 zoning; **with Butner opposed.**

On a motion by Norton, seconded by Freeman, the Commission **voted 5-2** to recommend that Council **not** allow a growery facility that is separate from a dispensary; **with Buchanan and Hough opposed.**

Chairperson Butner asked Community Development Director Jenkins whether information had been received from the Town Attorney concerning a letter sent to the Director of Arizona Department of Health Services from the U. S. Attorney. Jenkins said that the Town Attorney has taken the issue to the Arizona League of Cities and Towns, and is awaiting their response. Jenkins referred to warnings from other U. S. Attorneys from other states that state employees could be civilly or criminally liable for enforcing a law that would legalize medical marijuana dispensaries. The letter from the U. S. Attorney for the District of Arizona, was written in response to inquiries regarding the Department of Justice's view of the Department of Health Services rules creating a regulatory scheme for the distribution of marijuana for medical use in conflict with the Federal Controlled Substances Act making it unlawful to possess or distribute marijuana. Jenkins said that he and the Town Manager believe that pursuant to the current State law, the Commission should move forward and, if possible, make a recommendation tonight for the Council to consider. Chairperson Butner read into the record the referenced letter from Dennis K. Burke, U. S. Attorney dated May 2, 2011. ***(A copy of said letter is attached hereto as an Exhibit and incorporated herein.)***

The Commission discussion commenced with a comment that perhaps any action at this time is premature in light of the conflict between the State and Federal statutes. The members discussed the current activities in other states, and their impasse with the Federal laws in some instances. Butner repeated the language from the letter, in part, which stated that "individuals and organizations that knowingly facilitate the actions of traffickers also should know that compliance with AMMA will not protect them from Federal criminal prosecution." He acknowledged that it would be a stretch, but the action of the Commission to recommend zoning to enable marijuana dispensaries or groweries to exist in certain areas of the Town could possibly be viewed as facilitation. Commissioner Hough commented that the Commission has been given the job by the State of Arizona to make zoning available for medical marijuana; the Commission would not be approving the use of the substance, but simply making the zoning available. The members discussed at length the legal ramifications including the possibility of imposing conditions on a zoning recommendation. It was suggested that the task of the Commission is to decide on some zoning and leave it up to the Council for a decision.

PUBLIC INPUT

(Comments from the following individual are summarized.)

R. L. Miller commented on the letter of authorization for a property owner that he received from the State for the Arco Station which he is considering. He said that Cottonwood is on fire right now with applications, suggested ways that Camp Verde could limit AMMA activities, and commented on the billions in taxes being realized by California. Mr. Miller agreed that by zoning property C-2 the operations could be kept relatively small and under control. He suggested options, including locations where security is a priority. If Jerome gets a dispensary, Camp Verde will be stuck with looking at groweries everywhere. Mr. Miller is hoping for an approval letter from Camp Verde for a dispensary.

Continuing the discussion, the members considered whether to continue a decision for a later meeting, or to move forward with a recommendation tonight. There was concern that a more informed approach was needed based on input from the Town Attorney and what the League of Cities & Towns is doing. Jenkins reviewed how some other communities have approached the zoning issue, and the real possibility of a proliferation of groweries and how that could be virtually eliminated by allowing one dispensary in Camp Verde. Jenkins also commented on the possibility that barring medical marijuana activities by not providing a specific zone could lead to a lawsuit.

After decided to move on with a zoning recommendation, it was suggested that there was general agreement that the dispensary would be located in C-2, but no decision was made on zoning for groweries, although marijuana can be grown at the dispensary. By authorizing a dispensary, which is all that the AMMA requires, there would be no need for zoning for groweries that would be separate and apart from the dispensary. There was discussion regarding limiting the size of a dispensary, which it was suggested would be dictated by the demand for the product.

R. L. Miller was invited to offer further public input; he pointed out that the Town is looking at the benefit of a tax revenue, and agreed that the Town would have the right to limit the size of the dispensary as well as the growery sites. Mr. Miller said that the Town should not arbitrarily motivate everyone to go to other cities because of the impact of the U. S. Attorney letter, it is not really a big deal, Cottonwood is wide open for it. He also commented on the very small number of Federal prosecutions that Colorado had experienced. Mr. Miller outlined his tentative plans for the Arco station property as a dispensary.

The Commission also discussed limiting the size of the dispensary and whether it should be enclosed, as well as the amount of marijuana cultivated at that facility. Jenkins cautioned that it may not be possible to limit only one dispensary in the Town; also, he understands that the Commission would not want to make a recommendation of what zoning district a growery facility would be allowed in. Following the discussion and actions taken, Jenkins displayed a map of Camp Verde, indicating the areas that are zoned C-2; Jenkins confirmed that some areas would be excluded because of the location of schools, and that the Arco station is in the C-2 zone.

7. Commission Informational Reports:

Parrish said that the Fair had been very well represented by Camp Verde people.

Buchanan advised the Commission that this was his last meeting; his resignation has been submitted. He will be seated on Council June 1st, and said that he will conduct business on that body with the same integrity that shown by this Commission. He will be attending the Commission from time to time, and when a recommendation comes before Council when he is on it, he will take into consideration the majority vote of the Commission's decision-makers.

Hisrich said his farewell to Buchanan, with appreciation, adding that it has been fun to have him on the Commission with his perspective that is personally enjoyed.

8. Staff

Owens reminded everyone that any of the Commissioners are allowed to attend the Council meetings to provide their input on the Code Rewrite project. Owens expressed her gratitude to Buchanan for being a part of the Commission, a consistently cooperative, willing and helpful participant; she added a thank-you from the entire department.

9. Adjournment

On a motion by Buchanan, seconded by Norton, the meeting was adjourned at 8:02 p.m.

Joe Butner, Chairman

Planning & Zoning

CERTIFICATION

I hereby certify that the foregoing Minutes are a true and accurate accounting of the actions of the Planning & Zoning Commission of the Town of Camp Verde during the Special Session of the Planning & Zoning Commission of the Town of Camp Verde, Arizona, held on the 5th day of May 2011. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this _____ day of _____, 2011.

Margaret Harper, Recording Secretary